

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

PATRICK DURAY PORTLEY-EL,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. CIV-09-593-M
	)	
FRED FIGUEROA, Warden,	)	
	)	
Respondent.	)	

**ORDER**

On November 30, 2009, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this initial proceeding consistent with 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge recommended that the petition be summarily dismissed because: (1) petitioner has failed to name the proper respondent; (2) this Court lacks jurisdiction over the proper respondent; and (3) petitioner's predicate claim fails to state a cognizable claim for habeas relief under 28 U.S.C. § 2241. The Magistrate Judge, therefore, recommends that the petition for writ of habeas corpus be dismissed with prejudice upon filing. The parties were advised of their right to object to the Report and Recommendation by December 21, 2009, and on December 28, 2009, petitioner filed his objections. In his objections, petitioner asserts that: (1) Oklahoma state courts refuse to exercise their judicial powers; (2) Oklahoma state courts have failed to exercise any number of ministerial acts; (3) a clear and indisputable exists to have the petition heard; and (4) Oklahoma state courts have abused their discretion and made errors of law.

Upon de novo review, the Court:

- (1) ADOPTS the thorough and well-reasoned Report and Recommendation issued by the Magistrate Judge on November 30, 2009;
- (2) OVERRULES petitioner's objections; and

(3) DISMISSES this action with prejudice for lack of jurisdiction and the failure to state a claim.

**IT IS SO ORDERED this 30<sup>th</sup> of December, 2009.**



VICKI MILES-LAGRANGE  
CHIEF UNITED STATES DISTRICT JUDGE